REMARKS

Claims 9-11, 16-20, 25-31, 40-44, and 51-53 are pending. Claims 12-15, 21-24, 32-39, and 45-50 are canceled.

Claims 9-11, 16-20, 25-31, 40-44, and 51-53 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lewis et al. (US 2001/0041992, hereinafter "Lewis") and further in view of Yoder et al. ("The MEDIGATE Graphical User Interface for Entry of Physical Findings: Design Principles and Implementation," hereinafter "Yoder"). Applicants respectfully traverse this rejection.

The proposed combination fails to teach each and every element. In particular, Lewis and Yoder fail to teach or suggest a tri-state control. Lewis is silent regarding such controls, and Yoder discloses use of two bi-state controls, which under the proposed interpretation would yield a control having at least four states, not three.

Claim 9 is directed to a method for documenting medical findings of a physical examination. The method includes displaying a first interface including a first graphical representation of anatomical features, accepting from the user a first selection of an anatomical feature based on the first graphical representation of anatomical features, displaying a second interface including a second graphical representation of anatomical features and a first set of controls relating to a first plurality of medical conditions in response to accepting the first selection, accepting from the user a second selection from the second graphical representation of anatomical features, and displaying a third interface including a second set of controls relating to a second plurality of medical conditions. The first set of controls includes a tri-state control configured to indicate present, not present, or not entered. The method further includes accepting from the user an indication of not present, the indication resulting from the user selecting the tri-state control twice, and storing data associated with the indication with the first selection. Claim 18 is directed to a device that includes instructions for performing a method similar to that recited in claim 9.

Claim 53 is directed to a method for documenting medical findings of a physical examination. The method includes displaying a first interface including a first graphical representation of anatomical features, accepting from the user a first selection of an anatomical feature based on the first graphical representation of anatomical features, displaying a second interface including a second graphical representation of anatomical features and a first set of controls relating to a first plurality of medical conditions in response to accepting the first selection, accepting from the user an indication of not present, the indication resulting from the user selecting a tri-state control twice, combining the first selection and the indication to derive at least one medical finding, accepting from the user a second selection from the second graphical representation of anatomical features, and displaying a third interface including a second set of controls relating to a second plurality of medical conditions.

Turning to the cited references, Lewis is directed to an anatomical user interface for accessing healthcare information for a patient. The anatomical user interface generates an anatomical model of the patient from which the practitioner drills down to and selects an anatomical structure for which the healthcare information is to be accessed. (Lewis, Abstract). As stated previously, the filing date of Lewis postdates the priority date of the present application. The priority document of Lewis, which is lacking much of the disclosure of Lewis, fails to teach or suggest many elements recited in the claims. Accordingly, the PTO has further cited Yoder.

Yoder is directed to a computer enhanced interactive graphic and textual record of the findings from physical examinations. (Yoder, Abstract). Yoder states that the starting physical exam window contains a table of contents to which the user has immediate access. Some of the body regions have an "N" in the box to the immediate left. This designates what the physician routinely checks for and defaults to "N" for "Normal." (Yoder, pg. 330, last paragraph). Yoder provides an example in which, after examination of the abdomen, the physician selects the abdominal region from the examination status window. "This will open to the abdominal frame (see FIG. 2) which defaults to what the physician routinely checks for and finds as 'normal' findings. This physician routinely checks for scars, tenderness, point pain, masses, and guarding. If none of these are present, then they are designated normal (i.e., the 'N' in the box directly left to the finding). If the patient has 'Normal' findings within the abdomen, the physician simply

clicks on the box to the left of the 'N,' generating an 'X' to designate by an intentional affirmation that this patient has had all of these findings checked and they were normal." (Yoder, pg. 331, last paragraph - pg. 332, first paragraph). Neither Lewis nor Yoder disclose a tri-state control. In fact, in the sections of Yoder cited in the present Office Action, each of the controls appears to be a bi-state control, i.e., only having two states. Furthermore, Lewis and Yoder fail to teach or suggest selecting such a tri-state control twice in order to indicate the absence of a condition proactively.

As stated in the Final Office Action (p.7), the Examiner interprets Yoder's teachings of allowing the physician to utilize the letter "N" to designate "Normal" and "P" to denote problem areas and "X" to designate a positive affirmation that all findings were checked to teach a form of a "tri-state control." In fact, the combination of two of the disclosed two state controls yields an element as interpreted by the Examiner with at least four states: {_,N}; {_,P}; {X,N}; and {X,P}. Such a control is not a tri-state control having three states.

Regarding selecting the tri-state control twice to indicate not present, the Examiner turns to statements by Yoder regarding a "dynamic interactive user interface," "menus that allow multiple ways of giving the same command," "an interface where the user can give most commands at virtually any time," and an elaborate graphical interface that is adaptable to the users' needs." The existence of a dynamic interface provides no teaching regarding the state of a tri-state control after it is selected twice. Menus are not tri-state controls. An interface where the user can give most commands at virtually any time does not provide any teaching regarding the state of a tri-state control after it is selected twice. In addition, disclosure of an elaborate graphical interface does not inherently disclose the state of a tri-state control after it is selected twice. Accordingly, Yoder and the combination of Lewis in view of Yoder are silent regarding selecting the tri-state control twice to indicate not present.

In contrast, each of the independent claims 9, 18, and 53 recite a tri-state control. In addition, each of the independent claims 9, 18, and 53 recite "the indication resulting from the user selecting the tri-state control twice." At best, Lewis and Yoder disclose bi-state controls and at no point teach or suggest selecting a tri-state control twice in order to indicate not present.

For at least the foregoing reasons, claims 9-11, 16-20, 25-31, 40-44 and 51-53 are patentable over Lewis in view of Yoder. As such, Applicants respectfully request reconsideration and withdrawal of the 35 U.S.C. 103(a) rejection.

Applicants respectfully submit that the present application is now in condition for allowance. Accordingly, the Examiner is requested to issue a Notice of Allowance for all pending claims.

Should the Examiner deem that any further action by the Applicants would be desirable for placing this application in even better condition for issue, the Examiner is requested to telephone Applicants' undersigned representative at the number listed below.

The Commissioner is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number 50-3797.

Respectfully submitted,

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_____   _____
Date   John R. Schell, Reg. No. 50,776
                                                   Agent for Applicant(s)
                                                   LARSON NEWMAN ABEL
                                                   POLANSKY & WHITE, LLP
                                                   5914 West Courtyard Drive, Suite 200
                                                   Austin, TX 78730
                                                   (512) 439-7100 (phone)
                                                   (512) 439-7199 (fax)